

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

HARVEY VICTORIA-CUELLAR, :

Petitioner, : Civ. No. 23-157 (RBK)

v. :

WARDEN, FCI FORT DIX, : **MEMORANDUM & ORDER**

Respondent. :
:

Petitioner is a federal prisoner incarcerated at F.C.I. Fort Dix in Fort Dix, New Jersey.

Petitioner is proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241.

The habeas petition did not include an application to proceed *in forma pauperis* nor did it include a prepaid \$5.00 filing fee. Therefore, this case is administratively terminated. *See L. Civ. R. 54.3(a).* Petitioner shall have the opportunity to reopen this action should he so choose.

Accordingly, IT IS on this 27th day of January, 2023,

ORDERED that the Clerk shall administratively terminate this case; Petitioner is informed that administrative termination is not a “dismissal” for purposes of a statute of limitations, and that if the case is reopened, it is not subject to a statute of limitations time bar if it was originally filed timely, *see Papotto v. Hartford Life & Acc. Ins. Co.*, 731 F.3d 265, 275 (3d Cir. 2013) (distinguishing administrative terminations from dismissals); and it is further

ORDERED if Petitioner wishes to reopen this case, he shall so notify this Court in writing within thirty (30) days of the date of entry of this memorandum and order; Petitioner’s writing shall include either the \$5.00 filing fee or a complete application to proceed *in forma pauperis*; and it is further

ORDERED that upon receipt of a writing from Petitioner stating that he wishes to reopen this case and either the \$5.00 filing fee or a complete application to proceed *in forma pauperis*, the Clerk will be directed to reopen this case; and it is further

ORDERED that the Clerk shall serve upon Petitioner by regular U.S. mail: (1) a copy of this memorandum and order; and (2) a blank form application to proceed *in forma pauperis* by a prisoner in a habeas corpus case.

s/ Robert B. Kugler
ROBERT B. KUGLER
United States District Judge